IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

**WP(C).No. 28833 of 2007(G)**

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**PETITIONER:**

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P.P.ABDUL MAJEED, S/O.A.K.MAMMOD,
NEAR ASARI COMPANY BUS STOP, VIVEKANANDA ROAD,
P.O.CHIRAKKAL, KANNUR DIST.

BY ADV. SRI.KALEESWARAM RAJ

**RESPONDENTS:**

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF HOME AFFAIRS, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE, THIRUVANANTHAPURAM.

3. THE SUPERINTENDENT OF POLICE, KANNUR.

4. THE ACCOUNTANT GENERAL (A & E) KERALA, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

# V.GIRI, J.

**W.P.(C).No.28833 of 2007 H**

**Dated this the 28th day of September, 2007.**

## JUDGMENT

The petitioner, who retired as a Sub Inspector of Police on 31.3.2005, is essentially aggrieved by the fact that option exercised by him for Higher Grade pay fixation on the basis of Pay Revisions of 1992 and 1996 were not accepted by the Director General of Police, the Head of the Department.

2. As stated above, the petitioner retired on 31.3.2005 and he submitted Ext.P2 form of option for Higher Grade pay fixation on 19.3.2005. The declaration given by him in the prescribed form of Ext.P2 reads as follows:

"**FORM OF OPTION FOR HIGHER GRADE PAY FIXATION**

> I, P.P.Abdul Majeed, hereby elect to continue in the existing scale of pay of Rs.1000-1710 of my substantive/officiating post of PC/HC till 30.06.97 (mention date) for the purpose of getting higher grade in the scale of pay of Rs.1100-2070 sanctioned in G.O.(P) 480/89/Fin. Dated 01.11.89".

3. Ext.P2 was forwarded by the Superintendent of Police to the Secretary to Government, Home Department, as per Ext.P3 through the Director General of Police, But thereafter, the Director

General of Police, apparently, returned the same vide Ext.P4 on the ground that "as per the existing Rules, re-option to previous pay revision cannot be exercised except in the case of court orders/retrospective promotion etc." Ext.P4 is challenged by the petitioner in this writ petition on the ground that even if there had been a restriction to exercise re-option in relation to the pay revision of 1992 and 1996, the Government should have taken note of the fact that the petitioner's grievance is on account of the fact that his juniors were actually getting a pay higher than that of his and if this fact is accepted, his pay has to be revised. The petitioner submits that Exts.P7 and P8 are orders passed by the Government accepting the re-options stated to have been submitted by two persons, after the time limit provided for in the Government Orders.

4. I am of the view that the reason given in Ext.P4 for not considering the request made by the petitioner for re-option for re-fixation of his pay in the Higher Grade does not seem to be untenable. After all, the time-frame given for exercise of re-option to fix the pay scale in the Higher Grade will have to be adhered to and obviously there was considerable delay on the

part of the petitioner in exercising such option. In fact, he did it only about 10 days prior to his date of retirement.

5. Petitioner submits that Ext.P2 should have been considered by the Government. Therefore, he may be permitted to move the Government in the matter of re-fixation of the scale of pay for the purpose of fixing his pensionary benefits as such.

6. In the circumstances, after having heard learned Government Pleader, the writ petition is disposed of in the following terms.

(a) The petitioner may file a fresh representation before the Government requesting for fixation of scale of pay in the Higher Grade, as sought for in Ext.P2, and consequential re-fixation of his last pay within a period of four weeks from the date of receipt of a copy of this judgment.

(b) If such a representation is received, the Government shall, after hearing the petitioner, take a decision thereon within three months thereafter. I make it clear that

the liberty granted to the petitioner essentially would be only in relation to fixation of the pay for the purpose of pensionary benefits as such.

Subject to the above directions, the writ petition is disposed of.

Sd/-
**(V.GIRI)**
**JUDGE**

sk/

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